
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HEATHER NELSON,

Plaintiff,

v.

**SANTANDER CONSUMER USA, INC.,
PATRICK K. WILLIS CO., INC., d/b/a/
AMERICAN RECOVERY SERVICE, and
ASSETSBIZ CORP., d/b/a ABC
RECOVERY,**

Defendants,

SANTANDER CONSUMER USA, INC.,

Counter-Plaintiff,

v.

HEATHER NELSON,

Counter-Defendant.

Case No.: 11-cv-307

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION TO DISCLOSE
SANTANDER CONSUMER USA, INC.S,
STATED NET WORTH TO PLAINTIFF**

TO: SANTANDER CONSUMER USA, INC.
c/o Attorney Gary Caplan , Attorney David Z. Smith, and Attorney Max Stein
ReedSmith LLP
10 South Wacker Drive
Chicago, IL 60606-7507

PLEASE TAKE NOTICE the Plaintiff, Heather Nelson ("Nelson"), by her attorneys, Mary Catherine Fons and Ivan Hannibal, moves the Court to disclose Santander Consumer USA, Inc.'s ("Santander") stated net worth to Nelson.

The grounds for this motion are as follows:

1. On February 26, 2013, Nelson filed a motion to compel discovery responses from

Santander. (Dkt 133 and 134) Of relevance to this Motion, Nelson moved the Court to compel Santander to produce its most recent set of annual financial statements. (Dkt 133 and 134)

2. Nelson is seeking punitive damages from Santander arising out of debt collection activities it engaged in vis-à-vis Nelson and her two loans with HSBC. (Dkt 49)
3. Wisconsin's punitive damage statute specifically permits a plaintiff to introduce evidence of a defendant's wealth. On this, it provides, in pertinent part: "If the plaintiff establishes a *prima facie* case for the allowance of punitive damages: (a) The plaintiff may introduce evidence of the wealth of a defendant; and (b) The judge shall submit to the jury a special verdict as to punitive damages or, if the case is tried to the court, the judge shall issue a special verdict as to punitive damages. Wis. Stat. § 895.043(4).
4. A party's net worth is discoverable where punitive damages are at issue. *See Challenge Aspen v. King World Prods. Corp.*, 2001 WL 1403001, at *3 (N.D. Ill, Nov. 9, 2001).
5. On March 20, 2013, this Court, Magistrate Judge Stephen L. Crocker, presiding, held a telephone hearing on Nelson's motion to compel. (Dkt 143)
6. The Court granted in part and denied in part Nelson's motion to compel discovery. (Dkt 143) In doing so, the Court ordered Santander to file, no later than March 29, 2013, *ex parte and under seal*, a sworn statement of its approximate value as a company. (Dkt 143) In its Order, the Court stated that Judge Barbara B. Crabb then shall determine in what manner this information may be used by the parties in any determination of punitive damages. (Dkt 143)
7. According to a November 21, 2012, article in the Wall Street Journal, Santander, the car financing unit of Banco Santander SA, may be valued at as much as \$6 billion. The same article stated that, in 2011, Santander sold a portion of the company to several companies in a transaction that valued Santander at \$4 billion. A link to that article can

be found here:

<http://online.wsj.com/article/SB10001424127887324352004578133180748167690.html>

If the link can not be opened, Google “Santander Consumer and Wall Street Journal” and look for the article entitled “Santander Weighs IPO of U.S. Car-Finance Arm.”

8. According to ECF, on March 29, 2013, Santander filed its *ex parte sworn statement* regarding its approximate value as a company. (Dkt 144)
9. Nelson now moves the Court to disclose Santander’s net worth to Nelson so she can determine whether Santander has made a good-faith effort to value its company or it is attempting to conceal the real value of the company to minimize any punitive damage award.
10. Time is of the essence because the discovery cut-off date in this case is May 10, 2013, and Nelson needs time to conduct discovery to determine whether Santander is informing its investors that it is valued at one number and the court that it is valued at another, much lower number. (Dkt 48)

Dated this 1st day of April, 2013.

s/ Ivan Hannibal
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